

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

OLIVIA Y., ET AL

PLAINTIFFS

V.

CIVIL ACTION NO. 3:04CV251LN

HALEY BARBOUR, ET AL.

DEFENDANTS

RESPONSE TO MOTION FOR CLASS CERTIFICATION

COME NOW, Defendants, by counsel, and respond to Plaintiffs' Motion for Class Certification as follows:

1.

The motion for class certification was prepared prior to this Court's ruling that only the claims of denial of substantive due process survived the motion to dismiss and has not been amended so it is, at the time of this response, overly broad in some respects and in others it fails to address the children who were later joined. Eight children and four next friends remain.

2.

In response to the allegations of the motion, beginning with IA.:

IA. Admitted except the legal conclusions therein are denied and the allegations of the last unnumbered paragraph are denied.

IB. Denied. The facts as regard to these children and the other named children are attached hereto as Exhibit 1 and incorporated herein by reference.

IC. Denied as well as sub-parts 1 through 7 are denied except Defendants admit that DHS is understaffed with caseworkers and is attempting to employ more..

ID. Denied.

3.

Defendants further respond that Plaintiffs have failed to establish that the requirements of Rule 23(a) and 23(b) are satisfied for the reasons set forth in Defendants' Memorandum in Support hereof.

THIS, the 18th day of January 18, 2005.

Respectfully submitted,

**HALEY BARBOUR, as Governor of the State of MS;
DONALD TAYLOR, as Exec. Dir. of the Dept.
of Human Services; and BILLY MANGOLD as
Director of the Div. of Family and Children's
Services**

By: s/Sam E. Scott

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CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2005, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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I also certify that I have this day served a copy of the foregoing on the following non-ECF participants by United States Mail, postage prepaid:

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SO CERTIFIED, this the 18th day of January, 2005.

By: s/Sam E. Scott